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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,657	07/30/2001	Jonathan Lee Hanmann	K35A0874	2705

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EXAMINER

WALSH, JOHN B

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/918,657

Applicant(s)

HANMANN ET AL.

Examiner

John B. Walsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) 1-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/19/2005.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 1, 8, 16, 24, 31, 39, 47, 48 and 49 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the limitation of wherein at least one of the first and second communication channels is selected from a group consisting of a cellular provider network and a short range wireless access point, is drawn to non-elected species E (see claim 13).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 1-52 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

NOTE: If the claims were presented wherein they did not recite the new limitations the following rejection would apply.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 7-9, 14-17, 22-25, 30-32, 37-40 and 45-49 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,892,535 to Allen et al.

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As concerns claim 1, a method of operating a mobile terminal (set top box) during synchronization session, the method comprising the steps of: identifying a plurality of data types, including a first data type (data transmitted over a first channel) and a second data type (data transmitted over a second channel), to synchronize with the mobile terminal; identifying a first communication channel (a first channel, figure 14) and a second communication channel (a second channel, figure 14); applying a rule base to assign the first data type to the first communication channel and the second data type to the second communication channel (modulator); exchanging synchronization data of the first data type over the first communication channel and exchanging synchronization data of the second data type over the second communication channel (system inherently synchronizes data between the transmitting and receiving ends).

As concerns claims 2, 9, 17, 25, 32 and 40, wherein the first data type identifies public data (data received by user authorized to access, unscrambled) and the second data type identifies private data (data received by user that is not authorized (scrambled) to access until authorized; column 1, lines 37-39).

As concerns claims 7, 14, 22, 30, 37 and 45, wherein the step of exchanging synchronization data over the first communication channel is substantially concurrent with the step of exchanging synchronization data over the second communication channel (21, channel combiner, data transmitted concurrently, including the sync data).

As concerns claim 8, a method of operating a mobile terminal (set top box) during a synchronization session, the mobile terminal for communicating with at least one target computer (202), the target computer for applying a rule base for assigning a first data type to a

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first communication channel and a second data type to a second communication channel, the method comprising: identifying the first communication channel (a first channel, figure 14) and the second communication channel (a second channel, figure 14); and exchanging synchronization data of the first data type over the first communication channel and exchanging synchronization data of the second data type over the second communication channel (system inherently synchronizes data between the transmitting and receiving ends, synch data transmitted with each signal over its channel).

As concerns claim 15, the step of transmitting an identifier to the first target computer for identifying the second target computer (column 17, lines 8-12; user requests a particular file, file inherently has an identifier, wherein the local server will need to request the file from the server 222 if the file is stored there).

As concerns claim 16, a method of operating a first target computer (202) to synchronize a mobile terminal (set top box) over a first communication channel and over a second communication channel during a synchronization session, the mobile terminal for identifying the first communication channel and the second communication channel, the method of operating the first target computer comprising the steps of: identifying a plurality of data types, including a first data type (data transmitted over a first channel) and a second data type (data transmitted over a second channel) to synchronize with the mobile terminal; applying a rule base to assign the first data type to the first communication channel and the second data type to the second communication channel (modulator; first data assigned to a first channel and second data assigned to a second channel).

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As concerns claim 23, receiving from the mobile terminal an identifier identifying a second target computer (222) available for synchronizing the mobile terminal; configuring the first target computer to exchange synchronization data with the mobile terminal over the first communication channel (system inherently synchronizes data between the transmitting and receiving ends, synch data transmitted with each signal over its channel); and configuring the second target computer to exchange synchronization data with the mobile terminal over the second communication channel (system inherently synchronizes data between the transmitting and receiving ends, synch data transmitted with each signal over its channel).

As concerns claims 24, 31 and 39, a mobile terminal comprising: a screen (tv or other display screen connected with set top box); a local memory (set top box inherently has memory, i.e. a buffer memory); a terminal controller (remote control for set top box) for synchronizing the mobile terminal during a synchronization session by identifying a plurality of data types, including a first data type (data transmitted over a first channel) and a second data type (data transmitted over a second channel), to synchronize with the mobile terminal; identifying a first communication channel and a second communication channel (figure 14); applying a rule base to assign the first data type to the first communication channel and the second data type to the second communication channel (modulator, first data assigned to a first channel and second data assigned to a second channel); and exchanging synchronization data of the first data type over the first communication channel and exchanging synchronization data of the second data type over the second communication channel (system inherently synchronizes data between the transmitting and receiving ends, synch data transmitted with each signal over its channel).

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As concerns claim 38, the mobile terminal for communicating with a first target computer over the first communication channel and for communicating with a second target computer (222) over the second communication channel; and the terminal controller transmits an identifier (column 17, lines 8-12, user requests a particular file, file inherently has an identifier, wherein the local server will need to request the file from the server 222 if the file is stored there) to the first target computer for identifying the second target computer.

As concerns claim 46, the first target computer receives from the mobile terminal an identifier (users request for a particular file found on the second computer) identifying a second target computer (222) available for synchronizing the mobile terminal; the first target computer is configured to exchange synchronization data with the mobile terminal over the first communication channel (system inherently synchronizes data between the transmitting and receiving ends, synch data transmitted with each signal over its channel); and the second target computer is configured to exchange synchronization data with the mobile terminal over the second communication channel (system inherently synchronizes data between the transmitting and receiving ends, synch data transmitted with each signal over its channel).

As concerns claim 47, a computer program embodied on a computer readable storage medium (digital set top box will inherently have onboard memory) for use in a mobile terminal (set top box), the computer program for synchronizing the mobile terminal during a synchronization session, the computer program comprising code segments; identifying a plurality of data types, including a first data type (data transmitted over a first channel) and a second data type (data transmitted over a second channel), to synchronize with the mobile terminal; identifying a first communication channel and a second communication channel (figure

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14); applying a rule base to assign the first data type to the first communication channel and the second data type to the second communication channel (modulator, first data assigned to a first channel and second data assigned to a second channel); and exchanging synchronization data of the first data type over the first communication channel and exchanging synchronization data of the second data type over the second communication channel (system inherently synchronizes data between the transmitting and receiving ends, synch data transmitted with each signal over its channel).

As concerns claim 48, a computer program embodied on a computer readable storage medium (digital set top box will inherently have onboard memory) for use in a mobile terminal (digital set top box), the computer program for synchronizing the mobile terminal during a synchronization session, the mobile terminal for communicating with at least one target computer (202), the target computer for applying a rule base to assign a first data type to the first communication channel and a second data type to the second communication channel (modulator, first data assigned to a first channel and second data assigned to a second channel); the computer program comprising code segments for; identifying the first communication channel and the second communication channel (demodulator); and exchanging synchronization data of the first data type over the first communication channel and exchanging synchronization data of the second data type over the second communication channel (system inherently synchronizes data between the transmitting and receiving ends, synch data transmitted with each signal over its channel).

As concerns claim 49, a computer program embodied on a computer readable storage medium (server will inherently have onboard memory) for use in a target computer (202), the

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target computer for synchronizing a mobile terminal (digital set top box) over a first communication channel and over a second communication channel (figure 14, multiple channels) during a synchronization session, the mobile terminal for identifying the first communication channel and the second communication channel (demodulator or packet headers), the computer program comprising code segments for: identifying a plurality of data types, including a first data type (data transmitted over a first channel) and a second data type (data transmitted over a second channel), to synchronize the mobile terminal; and applying a rule base to assign the first data type to the first communication channel and the second data type to the second communication channel (modulator).

Response to Arguments

4. Applicant's arguments filed June 23, 2005 have been fully considered but they are not persuasive. The applicant has amended the claims, however the amendment is drawn to a non-elected species thereby rendering claims 1-52 withdrawn.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

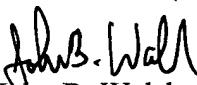
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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 571-272-7063. The examiner can normally be reached on Monday-Friday from 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


John B. Walsh
Primary Examiner
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